

FISCAL MEMORANDUM

HB 252 – SB 230

March 26, 2007

SUMMARY OF AMENDMENT (005164): Defines child sexual predator with prior convictions as an offender who serves time, is released and commits another predatory offense: aggravated sexual battery; statutory rape by an authority figure; sexual battery by an authority figure; solicitation of minor to commit sex offense; solicitation of minor to perform sex acts; or aggravated statutory rape.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$2,036,900 / Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Expenditures - \$440,300/ Incarceration*

Assumptions applied to amendment:

- Based on a sampling of offenders admitted in FY05, there were 54 admissions to Department of Correction (DOC) for sexual battery offenses and 14 for sexual battery by an authority figure offenses. This estimate assumes the same ratio (20.6 percent) would apply for statutory rape. In FY06, there were 91 admissions to DOC for the Class B offense of aggravated sexual battery. This estimate assumes that 20 percent (18) of those involved a victim less than 13 years of age. Ten percent of those (2) would be for second or subsequent convictions and the offender would serve an additional 1.2 years (an increase from 6.8 years to 8.0 years) as a result of this bill.
- According to DOC, the average operating cost per inmate per day for calendar year 2007 is \$60.16. The cost per inmate at 6.8 years is \$149,419.39 (\$60.16 x 2,483.70 days). The cost per inmate at 8.0 years is \$175,787.52 (\$60.16 x 2,922 days). The additional cost of increasing the average sentence length from 6.8 years to 8.0 years is \$26,368.13 (\$175,787.52 - \$149,419.39). The total additional operating cost for two offenders is \$52,736.26 (\$26,368.13 x 2).
- Under existing law, statutory rape by an authority figure is a Class C felony offense and persons convicted of this offense are not eligible for probation or judicial diversion. In FY06, there were 122 persons

admitted for statutory rape and 25 (122 x 20.6%) would be charged with the Class C felony of statutory rape by an authority figure. Ten percent of those (3) would be for second or subsequent offenses and the offender would serve an additional 2.1 years (an increase from 0.9 years to 3.0 years). The cost per inmate at 0.9 years is \$19,776.40 (\$60.16 x 328.73 days). The cost per inmate at 3.0 years is \$65,920.32 (\$60.16 x 1,095.75 days). The additional cost of increasing the average sentence length from 0.9 years to 3.0 years is \$46,143.92 (\$65,920.32 - \$19,776.40). The total additional operating cost for three offenders is \$138,431.76 (\$46,143.92 x 3).

- In FY06, there were 24 admissions for sexual battery by an authority figure. Estimate assumes 10 percent of those (2) would be for second or subsequent offenses and offenders would serve an additional 2.1 years (an increase from 0.9 years to 3.0 years). The cost per inmate at 0.9 years is \$19,776.40 (\$60.16 x 328.73 days). The cost per inmate at 3.0 years is \$65,920.32 (\$60.16 x 1,095.75 days). The additional cost of increasing the average sentence length from 0.9 years to 3.0 years is \$46,143.92 (\$65,920.32 - \$19,776.40). The total additional operating cost for two offenders is \$92,287.84 (\$46,143.92 x 2).
- In FY06, there were four admissions for solicitation of a minor. DOC assumes that ten percent (.40) of those will be for second or subsequent offenses. DOC estimates that one additional person every five years would be convicted of a second or subsequent Class C felony offense of solicitation of a minor to commit sex offenses and would serve an additional 2.1 years (an increase from 0.9 years to 3.0 years). The annualized cost per inmate at 0.9 years is \$3,955.52 (\$60.16 x 328.73 days x 0.20 annual number of convictions). The annualized cost per inmate at 3.0 years is \$13,184.06 (\$60.16 x 1,095.75 days and 0.20 annual number of convictions). The additional annualized cost of increasing the average sentence length from 0.9 years to 3.0 years is \$9,228.54 (\$13,184.06 - \$3,955.52).
- DOC estimates that one additional person every five years would be convicted of a second or subsequent Class B felony offense of solicitation of a minor to perform sex acts and would serve an additional 5.6 years (an increase from 2.4 years to 8.0 years). The annualized cost per inmate at 2.4 years is \$10,547.25 (\$60.16 x 876.60 days x 0.20 annual number of convictions). The annualized cost per inmate at 8.0 years is \$35,157.50 (\$60.16 x 2,922 days x 0.20 annual number of convictions). The additional annualized cost of increasing the average sentence length from 2.4 years to 8.0 years is \$24,610.25 (\$35,157.50 - \$10,547.25).
- The offense of statutory rape by an authority figure was enacted in 2006. Since there are not sufficient data on this offense, DOC is

utilizing data regarding sexual battery and sexual battery by an authority figure.

- Based on a sampling of offenders admitted to DOC during FY05, 35 persons would be convicted of the Class D felony offense of aggravated statutory rape. Ten percent of those (4) would be for a second or subsequent offense and the offender would serve an additional 1.4 years (an increase from 0.6 years to 2.0 years). The cost per inmate at 0.6 years is \$13,184.06 (\$60.16 x 219.15 days). The cost per inmate at 2.0 years is \$43,946.88 (\$60.16 x 730.50 days). The additional cost of increasing the average sentence length from 0.6 years to 2.0 years is \$30,762.82 (\$43,946.88 - \$13,184.06). The total additional operating cost for four offenders is \$123,051.28 (\$30,762.82 x 4).
- No significant incarceration cost increase will occur due to population growth in this period.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/LSC